

## **REMARKS**

Reconsideration of this application as amended is respectfully requested.

In the Office Action dated October 7, 2005, claims 1, 2, 4-9, 20-22 and 25-29 were pending. Claims 1, 2, 4-9 and 25-29 were rejected. In this response, claims 1-2, 7-9, 20, 22, 25 and 28-36 are pending. Claims 1, 8, 9, 20, 22, 25 and 28 have been amended. New claims 30-36 have been added. Claims 4-6, 21 and 26-27 have been canceled. Support for the amendments can be found throughout the specification as filed. No new matter has been added.

### **Amendments**

#### ***Rejections under 35 U.S.C. § 112***

##### **Claim 27**

Claim 27 stands rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claim 27 has been canceled without prejudice. Hence, Applicant respectfully requests withdrawal of rejection.

#### ***Rejections under 35 U.S.C. § 103(a)***

##### **Claim 1-2, 4-7, 9, 20, 22, 25-26 and 28-29**

Claims 1-2, 4-7, 9, 20, 22, 25-26 and 28-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Abboud et al, US 2002/0184484 (hereinafter “Abboud”) in view of Huang et al., U.S. Patent No. 6,735,548 (hereinafter “Huang”). Applicant hereby reserves the right to swear behind the cited references at a later date. Claims 4-6 and 26 have been canceled without prejudice. However, Applicant respectfully submits that Applicant’s invention as claimed in claims 1-2, 7, 9, 20, 22, 25 and 28-29, as amended, is patentable over Abboud in view of Huang.

Specifically, for example, independent claim 1, as amended, includes:

“selecting a first network design from among a plurality of network designs for a network having two or more network components based upon a design rule;

configuring network settings, including IP address, links and ports, for a first server in the network, the configuration of the network settings based upon the design rule and the first network design;

building a digital image with the network settings for the first server;”

(emphasis added)

Applicant’s amended claim 1 contains the limitations of selecting a network design based on a design rule, configuring network settings based on the network design and the design rule, and building a digital image with the network settings. It is respectfully submitted that the above limitations are absent from the cited references individually or in combination.

Rather, Abboud teaches a method for automatically re-provisioning an appliance server without significant user-interaction. An image file of a server is packaged by a re-provisioning utility with the current application from its NOS (network operating system) (Abboud, [0055]). When preparing an imaging operation for a server, a re-provisioning utility stores away system ID and IP addresses information, etc. in a file in the image partitions of the server. A remote image file is fetched by the server and stored in the images partition (Abboud, [0053]). After the system partition overlays the image atop NOS partition, the server is re-booted with system partition set hidden. Following the re-boot, the system ID, IP address, and other parameters are retrieved from storage (Abboud, [0054]). Clearly, system ID and IP addresses information are stored in a file different from an image file. In fact, Abboud specifically mentions that prior to the start of the re-provisioning operation, the re-provisioning utility places the system’s network settings/parameters (e.g. system ID, IP address, etc.) in a file that is forwarded to the image partition, from where it may later be accessed to restore the system parameters after the re-provisioning process is completed (Abboud, [0052]). However, nowhere in Abboud discloses or suggests selecting a network design based on a design rule, configuring network settings based on the network design and the design rule, and building a digital image with the network settings.

Huang teaches a technique to produce an availability graph using a network topology and perform an analysis on the graph to set forth the availability properties of the network topology (Huang, col. 1, lines 40-46). Nowhere in Huang discloses or suggests the above noted limitations of claim 1, as amended.

Further, Abboud discloses a re-provisioning method to replace an application running on a particular server by another application, due to, for example, a need to run the other application when all available servers are already being utilized (Abbound, [0010]). After re-provisioning, the network and system information/settings are conveniently restored. In contrast, claim 1, as amended, includes configuring network settings based on a network design and a design rule. Therefore, Abbound teaches away from Applicant's claimed invention.

Further, Huang is related to tools for automated network availability analysis. Abbound, on the other hand, is related to a method for extending server appliance functionality to allow automatic re-provisioning of the server appliance. There is neither suggestion nor motivation to combine the teachings of Abbound and Huang.

As such, not only do Abbound and Huang not disclose, individually or in combination, all limitations of claims 1, as amended, but the references, considered as a whole, do not suggest the desirability and thus the obviousness of making the combination. Even if they were combined, such a combination still lacks the limitations set forth above.

Therefore, for the above stated reasons, it is respectfully submitted that claim 1, as amended, is patentable over Abbound in view of Huang.

Independent claims 20 and 25, as amended, include similar limitations as claim 1, as amended. Therefore, for similar reasons as discussed above, it is respectfully submitted that independent claims 20 and 25, as amended, are patentable over Abbound in view of Huang.

Given that claims 1, 7 and 9 depend from claim 1, as amended, claim 22 depends from claim 20, as amended, and claims 28 and 29 depend from claim 25, as amended, it

is respectively submitted that claims 7, 9, 22, 28 and 29, as amended, are patentable over Abboud in view of Huang.

***Rejections under 35 U.S.C. § 103(a)***

**Claims 8**

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud in view of Huang further in view of Haun et al., U.S. Patent Number 6,751,658 (hereinafter, “Haun”). Applicant hereby reserves the right to swear behind the cited references at a later date. However, Applicant respectfully submits that Applicant’s invention as claimed in claim 8, as amended, is patentable over Abboud in view of Huang in further view of Haun.

Claim 8, as amended, depends from independent claim 1, as amended. Therefore, claim 8, as amended, includes all the limitations of independent claim 1, as amended. It is respectfully submitted that the above noted limitations of claim 1, as amended, are absent from Abboud, Huang and Haun, individually or in combination.

Haun teaches a method for providing a fault-tolerant, self-repairing, and remotely maintainable operating system for NC (network computer) clients (Haun, col. 2, lines 45-55). An NC client boots from the network and accesses a stored copy of the operating system from an NC server (Haun, col. 2, lines 55-60). However, nowhere in Haun discloses or suggests selecting a network design based on a design rule, configuring network settings based on the network design and the design rule, and building a digital image with the network settings.

Further, Haun is related to network computing. Specifically, a network computer client boots from a boot image provided by a network computer server. For reasons similar to those discussed above, Applicant respectfully submits that there is neither suggestion nor motivation to combine the teachings of Abboud, Huang, and Haun.

As such, not only do Abboud, Huang and Haun not disclose, individually or in combination, all limitations of claims 1, as amended, but the references, considered as a

whole, do not suggest the desirability and thus the obviousness of making the combination. Even if they were combined, such a combination still lacks the limitations set forth above.

Therefore, for the above stated reasons, it is respectfully submitted that claim 1, as amended, is patentable over Abbound in view of Huang in further view of Haun.

Given that claim 8, as amended, depends from claim 1, as amended, it is respectfully submitted that claim 8, as amended, is patentable over Abbound in view of Huang in further view of Haun.

## **CONCLUSION**

In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

The required fee for a three month extension is enclosed. Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Vincent Wen Jeng Lue

Reg. No.: 56,564

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300